

SITE VISIT REPORT – WILLMAR, MINNESOTA

Court Name & Location: 8th Judicial District of Minnesota (13 counties).

Site visit date: September 23, 2009, Kandiyohi County Courthouse, Willmar, Minnesota.

Site visit team members: Judge David C. Larson (DART Committee Member), Plymouth County Attorney Darrin Raymond (DART Committee Member), Third Judicial District Court Administrator Leesa McNeil, Sheryl Culver (President, Iowa Court Reporters Association), Karen Teig (Past President, Iowa Court Reporters Association), and Third Judicial District Court Reporter Mark Sturgeon.

1. Court Background Information

- a. Number of Judges: 11.
- b. Number of courtrooms: 22.
- c. Number of court reporters in the district: 9.
- d. Number of electronic recording monitors who are not certified court reporters: 0, although Clerk of Court staff will fill in on an emergency basis.

2. Judicial Support Staff for Each Judge

- a. Court reporters: Each Judge has their own court reporter, with the exception of one Judge who will soon be retiring and one Judge who shares a court reporter.
- b. Law Clerks: There are 6 law clerks for 11 Judges.
- c. Bailiffs: A bailiff is provided for each courtroom proceeding as needed.

3. History of Electronic Recording in this Court

- a. Year they began using digital recording: 2005.
- b. Reason why they implemented digital recording: The 8th Judicial District replaced Sony 4-track recorders that were being discontinued.
- c. Which DART system: High Criteria/Liberty.
- d. Reasons they selected this system rather than one of the others: Cost.

4. Description of the DART System

- a. Courtrooms with a DART system: All 22 courtrooms. Audio only, no video.

b. Type of DART equipment in each Courtroom:

- i. PC-based system
- ii. Microphones: 8 – 12, depending upon the size of the courtroom. One on the bench, two on each counsel table, one on the witness stand, one or two for the jury box, one conference “puck” microphone on the bench, and two wireless microphones.
- iii. Type of mixer: 12-channel.
- iv. Describe PA system: Integrated with the recording system.
- v. Conference phone: A telephone was not integrated into the system in the two courtrooms we visited, but a telephone could be integrated into the system through the PA.

c. Back-up and long-term archiving of digital recordings

- i. Daily back-up: The proceedings are simultaneously recorded to a local hard drive in the courtroom and a network storage device.
- ii. Long-term storage: Court staff periodically archives the record on a CD, usually monthly.

d. Cost per courtroom for their DART system

- i. PC: \$1,200.00
- ii. Microphones: \$250.00 - \$300.00 each.
- iii. AV mixer: \$950.00.
- iv. Installation cost: \$1,020.00, including licensing fee, headset and footfeet.
- v. Annual service agreement for equipment: \$338.00.
- vi. Annual service agreement for software: \$405.00.
- vii. Courtroom staff to operate/monitor system: 1.
- viii. Additional central tech staff to manage DART for all courtrooms: 1 IT person for the district.

5. Daily Management of the Digital Recording System in the Courtrooms

- a. Staff in each courtroom: 1.
- b. Central management staff: None.
- c. Daily procedure for managing the system: A court reporter manages the system each day. On rare occasions where a court reporter is not available, a Clerk of Court can fill in.

6. Courtroom Procedure for Attorneys and Litigants to Ensure Complete and Clear Recordings

- a. Explain procedures: Attorneys and litigants are instructed to speak clearly into the microphone and not to talk over one another.
- b. Problems or issues for attorneys/litigants: It took a little while for the attorneys to get used to speaking into the microphones.

7. Challenges Presented by the Use of DART

- a. Jury selection: No problems or challenges noted by the Judges, court reporters, or attorneys.
- b. Requests for playback of witness testimony or attorney questions: The Judges in the 8th District generally do not allow playback, but if it is needed, the court reporter can play back the portion of the record requested provided it is adequately bookmarked.
- c. Distribution of audio record: In Minnesota, the audio record can only be obtained upon application to the court and a showing of good cause.

8. Types of Cases or Proceedings that are Most Amenable to the Use of DART

- a. Observations of Judges: DART is used for all cases, although for longer proceedings, stenographic court reporters will often use their steno machine as the primary record, with DART as a back-up.
- b. Observations of attorneys: DART is acceptable for all proceedings.

9. Types of Cases or Proceedings that are Least Amenable to the Use of DART

- a. Observations of Judges: DART may be used in all cases unless realtime is necessary for a hearing-impaired Judge or participant.
- b. Observations of attorneys: Same as for the observations of Judges.

10. Reliability of the DART System

- a. Hardware: There were no reports of technical problems or failures that affected a record. Two instances of hardware problems were reported, but the district IT person was able to replace the hardware without affecting an ongoing proceeding. Additionally, the district keeps two back-up DART computers to use as substitutes if a system has a failure during a court proceeding.

- b. Software: No system failures were reported.
- c. Human error: One instance of the operator forgetting to turn the system on was reported where a Clerk of Court staff was operating the system instead of a court reporter.

11. Accuracy of the Digital Records

- a. Observations of Judges: The Judges we spoke with believed that the digital records are excellent.
- b. Observations of court reporters/DART monitors: The only issues reported were when a person mumbles, talks over another person, or is too far from the microphone. It was pointed out that trained staff catches these issues in the courtroom and addresses them. No problems were reported when the system was run by a certified court reporter.
- c. Observations of attorneys: The attorneys we spoke with felt the accuracy of the digital record was excellent.

12. Written Transcripts

- a. Transcript preparation: Certified court reporters prepare all of the transcripts from the digital recording.
- b. Qualifications for transcriptionists: In Minnesota, the transcriptionists are certified by the Minnesota Supreme Court as either steno court reporters or electronic court reporters.
- c. Process for requesting and obtaining a transcript: The court reporter who monitored the proceeding is contacted and a transcript is ordered.
- d. Completeness and accuracy of written transcripts:
 - i. Observations of Judges: Excellent.
 - ii. Observations of attorneys: Excellent.

13. Advantages of Courtroom DART Systems

- a. Observations of Judges: If needed, portions of the record can be played back later. Additionally, law clerks can listen to the actual proceeding when working on a case.
- b. Observations of court manager/tech staff: In cases where a court reporter is not available, a Clerk of Court staff can be brought in to monitor the system without delaying the hearing.

c. Observations of court reporters/DART monitors: When preparing transcripts, portions of the record can be replayed as needed. Additionally, if overwhelmed with transcripts, another certified court reporter can help with typing transcripts from the DART record.

14. Disadvantages of and Problems with Courtroom DART Systems

- a. Observations of Judges: A realtime record is not available for a hearing-impaired Judge or hearing-impaired participant in the proceeding.
- b. Observations of court manager/tech staff: No disadvantages or problems noted.
- c. Observations of court reporters/DART monitors: No disadvantages or problems noted.
- d. Observations of attorneys: No disadvantages or problems noted.

15. Satisfaction with their DART System

- a. Observations of Judges: Very satisfied.
- b. Observations of court manager/tech staff: Very satisfied.
- c. Observations of court reporters/DART monitors: Very satisfied.
- d. Observations of attorneys: Very satisfied.

16. Recommendations/Cautions for the Iowa courts regarding DART

- a. Observations of Judges: All Judges we spoke with recommended DART.
- b. Observations of court manager/tech staff: The court manager and tech person we spoke with recommended DART.
- c. Observations of court reporters/DART monitors: The court reporters we spoke with recommended DART, but cautioned that it must be monitored by trained personnel and that bookmarks are a vital part of the record. The court reporters further noted that the record is only as good as the training and skills of the person capturing the record.
- d. Observations of attorneys: The attorneys we spoke with recommended DART.

ADDITIONAL OBSERVATIONS

Court personnel in Willmar stressed that in order to capture an accurate record, the DART system should be monitored in the courtroom by a certified court reporter. Minnesota has two certifications for court reporters: official court reporter – steno, and official court reporter – electronic. Both OCR – stenos and OCR – electronics are used to monitor the DART system, but the OCR – stenos can also use a steno machine to capture the record. In that regard, the OCR – stenos indicated that they typically will use their steno machine for longer proceedings with the recording equipment running as a back-up. The main reason they use their steno machines is in case a transcript is ordered, they use the steno machine software to create the rough draft. If the proceeding is only recorded and a transcript is requested, the OCR – S will first play back the recording, write the proceeding to his or her steno machine, and then transcribe the proceeding. OCR – Es type the transcript directly from the recording. All of the court reporters indicated that bookmarks in the record are crucial to note who is talking and to note such things as nonverbal responses or demonstrative evidence. Additionally, bookmarks are used as a quick reference to go back to any part of the record following the proceeding.

As used in Minnesota's 8th Judicial District, the DART system is not a substitute for a court reporter. In essence, the DART system is being substituted for the steno machine as a different medium on which to capture the record.